

10/677,956



Attorney Docket No. 323-100US-D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Group Art Unit: 1648
)	
ZEBEDEE et al.)	Examining Attorney:
)	Zachariah Lucas
Serial No.: 10/677956)	
)	Date: February 13, 2006
Filed: October 1, 2003)	Pasadena, California
)	
For: METHODS AND SYSTEMS FOR)	
PRODUCING RECOMBINANT)	
VIRAL ANTIGENS)	

DECLARATION OF JOSEPH E. MUETH

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I, Joseph E. Mueth, declare:

I am counsel of record in the above-identified patent application.

I am a member of The State Bar of California and have been admitted to practice before the United States Court of Appeals for the Federal Circuit, the Supreme Court of the United States, and other State and Federal Courts.

I am admitted to practice before the United States Patent and Trademark Office.

The above-captioned patent application, which was filed October 1, 2003, is a divisional of United States Patent Application Serial No. 08/931,855, filed September 16, 1997 and issued as United States Patent No. 6,692,751 B1 on February 17, 2004.

The above-identified Serial No. 08/931,855 was a continuation-in-part of United States Patent Application Serial No. 272,271, filed July 8, 1994, which became abandoned on October 14, 1997. See Paper No. 45 in Exhibit 1, hereto.

The above-identified United States Patent Application Serial No. 272,271, filed July 8, 1994, was a continuation of Serial No. 616,389, filed November 21, 1990 (which became abandoned on July 8, 1994, see Paper No. 26 in Exhibit 1.)

The above-identified United States Patent Application Serial No. 616,389, filed November 21, 1990 was a continuation-in-part of United States Patent Application Serial No. 574,643, filed August 27, 1990, (which became abandoned on July 11, 1994, see Paper No. 28 in Exhibit 2).

The Amendment Filed Herewith

The Amendment after page 7, line 30 is based, verbatim, on the disclosure contained in abandoned United States Patent Application Serial No. 07/573,643, filed August 27, 1990 at page 6, line 23 through page 7, line 28 thereof except that the

Figures have been re-numbered to make the numbers run consecutively with the Figures already appearing in the instant patent application, Paper No. 1 in Exhibit 2.

The Amendment after the paragraph ending on page 43, line 15 is, verbatim, as it appears in the above-mentioned United States Patent Application Serial No. 07/573,643 at page 37, line 15 through page 73, line 5 except for the re-numbering of the Examples and the Figures for consistency sake and to make the Examples run consecutively with the Examples already appearing in the instant patent application, Paper No. 1 in Exhibit 2.

The Amendment to incorporate Figures 9 and 10 is based exactly on Figures 1 and 2 of the above-mentioned United States Patent Application Serial No. 07/573,643, Paper No. 1 in Exhibit 2.

Subject to the same editorial changes noted immediately hereinabove, the amendatory material after page 7, line 30, also appears essentially verbatim in Serial No. 616,389, filed November 21, 1990 at page 76, line 22 to page 77, line 27 of Paper No. 1 in Exhibit 1.

The amendatory material after page 43, line 15, also appears verbatim in Serial No. 616,389, filed November 21, 1990 at page 36, line 15 through page 44, line 27; page 45, line 11 through page 62, line 8; page 65, line 1 through line 33; page 66, line 3

through page 68, line 24; and page 69, line 4 through page 74, line 16, Paper No. 1 in Exhibit 1.

SEQ ID No. 1 and SEQ ID No. 2 appearing in Serial No. 616,389, filed November 21, 1990 are identical to amendatory Figures 9 and 10, respectively.

The Specification including the Sequences of Serial No. 616,389 were carried over in toto into Serial No. 272,271, filed July 8, 1994.

All of the disclosure of Serial Nos. 07/573,643 filed August 27, 1990, 616,389 filed November 21, 1990, and 272,271 filed July 8, 1994 was incorporated by reference in Serial No. 08/931,855, filed September 16, 1997 (now United States Patent No. 6,692,751 B1) and, subsequently into the instant divisional patent application by incorporation by reference. See the first printed paragraph of United States Patent No. 6,692,751 B1 (top of column 1) and the Preliminary Amendment filed as part of the instant patent application on October 1, 2003, at page 2 thereof.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false

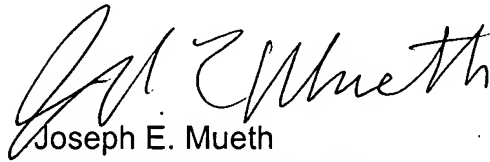
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statements may jeopardize the validity of the application or any patent issued thereon.

Date: February 13, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. E. Mueth".

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